

AMENDED IN ASSEMBLY MAY 8, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1083

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Horton, Krekorian, Lieber, and
Portantino)

February 23, 2007

~~An act to add and repeal Sections 17053.62 and 23662 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Section 43871 to the Health and Safety Code, relating to fuels.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1083, as amended, Huffman. ~~Income and corporation taxes: credit: sale of biodiesel fuel. Alternative fuel infrastructure grant program.~~

Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and requires the State Energy Resources Conservation and Development Commission, in partnership with the state board, and in consultation with specified state agencies, to develop and adopt a state plan to increase the use of alternative fuels, as defined.

This bill would require the state board to establish a program to provide one-time grants of \$50,000 to fuel station operators in the state to help fund the cost of installing publicly accessible fuel tanks and distribution equipment necessary for distribution of a qualifying alternative fuel, as defined. The bill would create the Alternative Fuel Infrastructure Account and require moneys in the account to, upon

appropriation by the Legislature, be expended by the state board for the purposes of this grant program.

~~The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits in computing the taxes imposed by those laws.~~

~~This bill would, under both laws, for taxable years beginning on or after January 1, 2008, and before January 1, 2023, allow a tax credit in an amount equal to an unspecified amount for each gallon of qualified biodiesel fuel, as defined, sold by a fuel retailer, as defined, at any facility located in this state.~~

~~This bill also states the Legislature's intent to provide grants to retailers that install tanks and distribution equipment that meet specified low carbon standards.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 43871 is added to the Health and Safety*
- 2 *Code, to read:*
- 3 *43871. (a) The state board shall establish a program to provide*
- 4 *not more than 1,800 one-time grants in the amount of fifty thousand*
- 5 *dollars (\$50,000) each to fuel station operators in the state to help*
- 6 *fund the cost of installing publicly accessible fuel tanks and*
- 7 *distribution equipment necessary for distribution of a qualifying*
- 8 *alternative fuel.*
- 9 *(b) The state board shall distribute grants only if the cost of*
- 10 *installing the equipment exceeds fifty thousand dollars (\$50,000).*
- 11 *(c) The state board shall give applicants that operate in areas*
- 12 *with the largest alternative fuel vehicle populations priority. Where*
- 13 *applicants operate in areas with equal alternative fuel vehicle*
- 14 *populations, the earlier applicant shall have priority in the*
- 15 *awarding of grants.*
- 16 *(d) (1) The Alternative Fuel Infrastructure Account is*
- 17 *established within the State Treasury. Moneys in the account shall,*
- 18 *upon appropriation by the Legislature, be expended by the state*
- 19 *board for the purposes of this section.*
- 20 *(2) Notwithstanding any other provision of law, the Alternative*
- 21 *Fuel Infrastructure Account may accept and receive federal, state,*

1 and local funds and any other funds from public or private
2 organizations or individuals, including funds from a judgment in
3 state or federal court where the funds are contributed or the
4 judgment specifies that the proceeds are to be used for the purposes
5 of this section. Private contributors shall not have the authority
6 to influence or direct the use of their contributions.

7 (e) (1) For the purposes of this section, “qualifying alternative
8 fuel” means any fuel that on a full fuel-cycle assessment and energy
9 equivalent basis, does not increase the emissions of greenhouse
10 gases, toxic air contaminants, criteria air pollutants, water
11 pollutants, or any other substances known to damage human health
12 or the environment, in comparison to the production and use of a
13 petroleum derived fuel, and that is either of the following:

14 (A) A nonpetroleum fuel, including electricity, ethanol, liquefied
15 petroleum gas, hydrogen, methanol, or compressed natural gas
16 that, when used in vehicles, has demonstrated, to the satisfaction
17 of the state board, to have the ability to meet applicable vehicular
18 emission standards.

19 (B) Any other fuel derived from renewable resources, in the
20 discretion of the state board.

21 (2) “Qualifying alternative fuel” includes petroleum fuel
22 blended with any of the nonpetroleum constituents specified in
23 paragraph (1) only if the fuel achieves either of the following:

24 (A) Maintains or improves upon emissions reductions and air
25 quality benefits achieved by the California Phase 2 Reformulated
26 Gasoline Program as of January 1, 1999, including emissions
27 reductions for all pollutants and precursors identified in the State
28 Implementation Plan for ozone, and emissions of potency weighted
29 toxics compounds and particulate matter.

30 (B) Maintains or improves upon the emissions reductions and
31 air quality benefits achieved by the diesel fuel regulations in Article
32 2 (commencing with Section 2280) of Chapter 5 of Division 3 of
33 Title 13 of the California Code of Regulations.

34 ~~SECTION 1. Section 17053.62 is added to the Revenue and~~
35 ~~Taxation Code, to read:~~

36 ~~17053.62. (a) For each taxable year beginning on or after~~
37 ~~January 1, 2008, and before January 1, 2023, there shall be allowed~~
38 ~~as a tax credit against the “net tax,” as defined by Section 17039,~~
39 ~~an amount equal to _____ cents for each gallon of qualified biodiesel~~

1 fuel sold during the taxable year by a fuel retailer at any retail
2 facility located in this state.

3 (b) For purposes of this section, all of the following definitions
4 apply:

5 (1) “Qualified biodiesel fuel” means any biodiesel fuel that
6 satisfies both of the following requirements:

7 (A) It meets the Low Carbon Fuel Standard (LCFS), to be
8 established pursuant to Executive Order S-01-07.

9 (B) The price of each gallon is _____ percent higher than the
10 price of a gallon of regular fuel.

11 (2) “Fuel retailer” means any person who sells or otherwise
12 provides fuel to consumers.

13 (c) No deduction shall be allowed for that portion of the
14 expenses otherwise allowable as a deduction for the taxable year
15 that is equal to the amount of the credit determined for the taxable
16 year under this section.

17 (d) In the case where the credit allowed by this section exceeds
18 the “net tax,” the excess may be carried over to reduce the “net
19 tax” in the following year, and the six succeeding years if
20 necessary, until the credit is exhausted.

21 (e) The Franchise Tax Board, in consultation with the California
22 Air Resources Board, shall prescribe rules and regulations
23 necessary to implement this section.

24 (f) This section is repealed on January 1, 2023.

25 SEC. 2. Section 23662 is added to the Revenue and Taxation
26 Code, to read:

27 23662. (a) For each taxable year beginning on or after January
28 1, 2008, and before January 1, 2023, there shall be allowed as a
29 tax credit against the “tax,” as defined by Section 23036, an amount
30 equal to _____ cents for each gallon of qualified biodiesel fuel sold
31 during the taxable year by a fuel retailer at any retail facility located
32 in this state.

33 (b) For purposes of this section, all of the following definitions
34 apply:

35 (1) “Qualified biodiesel fuel” means any biodiesel fuel that
36 satisfies both of the following requirements:

37 (A) It meets the Low Carbon Fuel Standard (LCFS), to be
38 established pursuant to Executive Order S-01-07.

39 (B) The price of each gallon is _____ percent higher than the
40 price of a gallon of regular fuel.

1 ~~(2) “Fuel retailer” means any person who sells or otherwise~~
2 ~~provides fuel to consumers.~~

3 ~~(e) No deduction shall be allowed for that portion of the~~
4 ~~expenses otherwise allowable as a deduction for the taxable year~~
5 ~~which is equal to the amount of the credit determined for the~~
6 ~~taxable year under this section.~~

7 ~~(d) In the case where the credit allowed by this section exceeds~~
8 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
9 ~~the following year, and the six succeeding years if necessary until~~
10 ~~the credit is exhausted.~~

11 ~~(e) The Franchise Tax Board, in consultation with the California~~
12 ~~Air Resources Board, shall prescribe rules and regulations~~
13 ~~necessary to implement this section.~~

14 ~~(f) This section is repealed on January 1, 2023.~~

15 ~~SEC. 3. (a) It is the intent of the Legislature to provide a~~
16 ~~one-time grant in the amount of fifty thousand dollars (\$50,000)~~
17 ~~to each fuel retailer for purposes of installing tanks and distribution~~
18 ~~equipment that meet the requirements of the Low Carbon Fuel~~
19 ~~Standard, to be established pursuant to Executive Order S-01-07.~~

20 ~~(b) The Legislature finds and declares that the tax credit program~~
21 ~~established pursuant to Sections 17053.62 and 23662 of the~~
22 ~~Revenue and Taxation Code may be suspended under certain~~
23 ~~exigent circumstances, such as fuel shortage, an economic~~
24 ~~slowdown, or a technical change.~~

25 ~~SEC. 4. This act provides for a tax levy within the meaning of~~
26 ~~Article IV of the Constitution and shall go into immediate effect.~~